

Other Than Honorable Discharges

Impact on Eligibility for VA Health Care Benefits

Benefit Description

To be considered a “Veteran” eligible for Department of Veterans Affairs (VA) health care benefits, a former service-member must have been discharged “under conditions other than dishonorable.” Under VA regulations, administrative discharges characterized by the armed services as “Honorable” or “General Under Honorable Conditions” are qualifying, and punitive discharges (“Dishonorable” or “Bad Conduct”) issued by general courts-martial are disqualifying.

The in-between categories, administrative “Other than Honorable” discharges, and punitive “Bad Conduct Discharges” issued by special courts-martial, may or may not be disqualifying for purposes of general VA benefit eligibility or VA health benefits eligibility specifically. In assessing whether such discharges were issued “under conditions other than dishonorable,” VA must apply the standards set forth in Title 38 Code of Federal Regulations (C.F.R.) §3.12.

“Other than Honorable” Discharges – Special Health Care Rule

An individual with an “Other than Honorable” discharge that VA has determined to be disqualifying under application of title 38 C.F.R. §3.12 still retains eligibility for VA health care benefits for service-incurred or service-aggravated disabilities unless he or she is subject to one of the statutory bars to benefits set forth in Title 38 United States Code §5303(a). Authority: Section 2 of Public Law 95-126 (Oct. 8, 1977).

VA health care benefits: If an individual presents or makes an application for VA health care benefits and has an “other than honorable” or “bad conduct” discharge, eligibility staff may register the individual and place in a Pending Verification Status. A request for an administrative decision regarding the character of service for VA health care purposes must be made to the local VA Regional Office (VARO). This request may be submitted using a VA Form 7131, Exchange of Beneficiary Information and Request for Administrative and Adjudicative Action. In making determinations of

health care eligibility the same criteria will be used as are now applicable to determinations of service connection when there is no character of discharge bar.

Reference: M21-1 Part IV, Chapter 11 “Special Determinations and Administrative Decisions.”

When eligibility cannot be immediately established, the service (including transportation) may be authorized without any delay if it is determined that eligibility for care probably will be established.

Tentative eligibility determinations can be made:

(a) *In emergencies.* The applicant needs hospital care or other medical services in emergency circumstances, or

(b) *For persons discharged from service.* The application for health care benefits was filed within 6 months after the date of an other than dishonorable discharge from active military, naval, or air service, and for a Veteran who seeks eligibility based on a period of service that began after September 7, 1980, and the Veteran meets the minimum service requirements in 38 USC 5303A.

Note: Emergent treatment may be provided with a signed statement by the Veteran (may be on a VA Form 119, Report of Contact) that if s/he is subsequently found to be NOT Eligible for VA health care, they agree to pay the Humanitarian Rate for any emergent care or services provided while under this Pending Verification status.

Note: A Veteran may request a review of his/her discharge from the Armed Forces, by submitting Form DD 293, “Application for the Review of Discharge from the Armed Forces of the United States” to the appropriate branch of service where the active duty was served. This request must be made within 15 years of discharge from active service. Form DD 293 can be found at the following link: www.dtic.mil/whs/directives/infomgt/forms/eforms/dd0293.pdf

If the discharge the Veteran wants reviewed was issued over 15 years ago, instead of applying on a DD Form 293, the Veteran must petition the appropriate Board for Correction of Military Record using DD Form 149, Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code, Section 1552. Form DD 149 can be found at the following link: www.dtic.mil/whs/directives/infomgt/forms/forminfo/forminfoformpage2137.html

Note: A Veteran may request copies of Military Records, by submitting Form SF 180, “Request Pertaining to Military Records” to the appropriate branch of service. The form can be found at www.archives.gov/research/order/standard-form-180.pdf, or it may be completed online at www.archives.gov/veterans/military-service-records.

For Further Information: Contact your local VA health care facility’s Eligibility office or the Health Eligibility Center at 404-828-5257. This and other eligibility related fact sheets are available at www.va.gov/healthbenefits/resources/publications.asp.

Authorities: Title 38, United States Code, §5303(a); Pub. L. No. 95-126, §2; and Title 38, Code of Federal Regulations, §§3.12 and 17.34.